

Calendar No. 555

104TH CONGRESS
2D Session

S. 1869

[Report No. 104-346]

A BILL

To make certain technical corrections in the Indian Health Care Improvement Act, and for other purposes.

JULY 31, 1996

Reported without amendment

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To make certain technical corrections in the Indian Health Care Improvement Act, and for other purposes.

IN THE SENATE OF THE UNITED STATES

JUNE 13, 1996

Mr. MCCAIN (for himself, Mrs. KASSEBAUM, Mr. MURKOWSKI, Mr. STEVENS, and Mr. SIMON) introduced the following bill; which was read twice and referred to the Committee on Indian Affairs

JULY 31, 1996

Reported by Mr. MCCAIN, without amendment

A BILL

To make certain technical corrections in the Indian Health Care Improvement Act, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE; REFERENCES.**

4 (a) SHORT TITLE.—This Act may be cited as the
5 “Indian Health Care Improvement Technical Corrections
6 Act of 1996”.

1 (b) REFERENCES.—Whenever in this Act an amend-
 2 ment or repeal is expressed in terms of an amendment
 3 to or repeal of a section or other provision, the reference
 4 shall be considered to be made to a section or other provi-
 5 sion of the Indian Health Care Improvement Act.

6 **SEC. 2. TECHNICAL CORRECTIONS IN THE INDIAN HEALTH**
 7 **CARE IMPROVEMENT ACT.**

8 (a) DEFINITION OF HEALTH PROFESSION.—Section
 9 4(n) (25 U.S.C. 1603(n)) is amended—

10 (1) by inserting “allopathic medicine,” before
 11 “family medicine”; and

12 (2) by striking “and allied health professions”
 13 and inserting “an allied health profession, or any
 14 other health profession”.

15 (b) INDIAN HEALTH PROFESSIONS SCHOLAR-
 16 SHIPS.—Section 104(b) of the Indian Health Care Im-
 17 provement Act (25 U.S.C. 1613a(b)) is amended—

18 (1) in paragraph (3)—

19 (A) in subparagraph (A)—

20 (i) by striking the matter preceding
 21 clause (i) and inserting the following:

22 “(3)(A) The active duty service obligation under a
 23 written contract with the Secretary under section 338A
 24 of the Public Health Service Act (42 U.S.C. 254l) that
 25 an individual has entered into under that section shall,

1 if that individual is a recipient of an Indian Health Schol-
 2 arship, be met in full-time practice, by service—”;

3 (ii) by striking “or” at the end of
 4 clause (iii);

5 (iii) by striking the period at the end
 6 of clause (iv) and inserting “; or”; and

7 (iv) by adding at the end the following
 8 new clause:

9 “(v) in an academic setting (including a pro-
 10 gram that receives funding under section 102, 112,
 11 or 114, or any other academic setting that the Sec-
 12 retary, acting through the Service, determines to be
 13 appropriate for the purposes of this clause) in which
 14 the major duties and responsibilities of the recipient
 15 are the recruitment and training of Indian health
 16 professionals in the discipline of that recipient in a
 17 manner consistent with the purpose of this title, as
 18 specified in section 101.”;

19 (B) by redesignating subparagraphs (B)
 20 and (C) as subparagraphs (C) and (D), respec-
 21 tively;

22 (C) by inserting after subparagraph (A)
 23 the following new subparagraph:

24 “(B) At the request of any individual who has entered
 25 into a contract referred to in subparagraph (A) and who

1 receives a degree in medicine (including osteopathic or
2 allopathic medicine), dentistry, optometry, podiatry, or
3 pharmacy, the Secretary shall defer the active duty service
4 obligation of that individual under that contract, in order
5 that such individual may complete any internship, resi-
6 dency, or other advanced clinical training that is required
7 for the practice of that health profession, for an appro-
8 priate period (in years, as determined by the Secretary),
9 subject to the following conditions:

10 “(i) No period of internship, residency, or other
11 advanced clinical training shall be counted as satis-
12 fying any period of obligated service that is required
13 under this section.

14 “(ii) The active duty service obligation of that
15 individual shall commence not later than 90 days
16 after the completion of that advanced clinical train-
17 ing (or by a date specified by the Secretary).

18 “(iii) The active duty service obligation will be
19 served in the health profession of that individual, in
20 a manner consistent with clauses (i) through (v) of
21 subparagraph (A).”;

22 (D) in subparagraph (C), as so redesign-
23 nated, by striking “prescribed under section
24 338C of the Public Health Service Act (42
25 U.S.C. 254m) by service in a program specified

1 in subparagraph (A)” and inserting “described
 2 in subparagraph (A) by service in a program
 3 specified in that subparagraph”; and

4 (E) in subparagraph (D), as so redesign-
 5 nated—

6 (i) by striking “Subject to subpara-
 7 graph (B),” and inserting “Subject to sub-
 8 paragraph (C),”; and

9 (ii) by striking “prescribed under sec-
 10 tion 338C of the Public Health Service Act
 11 (42 U.S.C. 254m)” and inserting “de-
 12 scribed in subparagraph (A)”;

13 (2) in paragraph (4)—

14 (A) in subparagraph (B), by striking the
 15 matter preceding clause (i) and inserting the
 16 following:

17 “(B) the period of obligated service described in
 18 paragraph (3)(A) shall be equal to the greater
 19 of—”; and

20 (B) in subparagraph (C), by striking “(42
 21 U.S.C. 254m(g)(1)(B))” and inserting “(42
 22 U.S.C. 254l(g)(1)(B))”; and

23 (3) in paragraph (5), by adding at the end the
 24 following new subparagraphs:

1 “(C) Upon the death of an individual who receives
2 an Indian Health Scholarship, any obligation of that indi-
3 vidual for service or payment that relates to that scholar-
4 ship shall be canceled.

5 “(D) The Secretary shall provide for the partial or
6 total waiver or suspension of any obligation of service or
7 payment of a recipient of an Indian Health Scholarship
8 if the Secretary determines that—

9 “(i) it is not possible for the recipient to meet
10 that obligation or make that payment;

11 “(ii) requiring that recipient to meet that obli-
12 gation or make that payment would result in ex-
13 treme hardship to the recipient; or

14 “(iii) the enforcement of the requirement to
15 meet the obligation or make the payment would be
16 unconscionable.

17 “(E) Notwithstanding any other provision of law, in
18 any case of extreme hardship or for other good cause
19 shown, the Secretary may waive, in whole or in part, the
20 right of the United States to recover funds made available
21 under this section.

22 “(F) Notwithstanding any other provision of law,
23 with respect to a recipient of an Indian Health Scholar-
24 ship, no obligation for payment may be released by a dis-
25 charge in bankruptcy under title 11, United States Code,

1 unless that discharge is granted after the expiration of the
 2 5-year period beginning on the initial date on which that
 3 payment is due, and only if the bankruptcy court finds
 4 that the nondischarge of the obligation would be uncon-
 5 scionable.”.

6 (c) REIMBURSEMENT FROM CERTAIN THIRD PAR-
 7 TIES OF COSTS OF HEALTH SERVICES.—Section 206 (16
 8 U.S.C. 1621e) is amended—

9 (1) in subsection (a)—

10 (A) in the matter preceding paragraph

11 (1)—

12 (i) by striking “Except as provided”
 13 and inserting “(a) RIGHT OF RECOV-
 14 ERY.—Except as provided”;

15 (ii) by striking “the reasonable ex-
 16 penses incurred” and inserting “the rea-
 17 sonable charges billed”;

18 (iii) by striking “in providing” and in-
 19 serting “for providing”; and

20 (iv) by striking “for such expenses”
 21 and inserting “for such charges”; and

22 (B) in paragraph (2), by striking “such ex-
 23 penses” each place it appears and inserting
 24 “such charges”;

1 (2) in subsection (b), by striking “(b) Sub-
 2 section (a)” and inserting “(b) RECOVERY AGAINST
 3 STATE WITH WORKERS’ COMPENSATION LAWS OR
 4 NO-FAULT AUTOMOBILE ACCIDENT INSURANCE
 5 PROGRAM.—Subsection (a)”;

6 (3) in subsection (c), by striking “(c) No law”
 7 and inserting “(c) PROHIBITION OF STATE LAW OR
 8 CONTRACT PROVISION IMPEDIMENT TO RIGHT OF
 9 RECOVERY.—No law”;

10 (4) in subsection (d), by striking “(d) No ac-
 11 tion” and inserting “(d) RIGHT TO DAMAGES.—No
 12 action”;

13 (5) in subsection (e)—

14 (A) in the matter preceding paragraph (1),
 15 by striking “(e) The United States” and insert-
 16 ing “(e) INTERVENTION OR SEPARATE CIVIL
 17 ACTION.—The United States”; and

18 (B) by striking paragraph (2) and insert-
 19 ing the following new paragraph:

20 “(2) while making all reasonable efforts to pro-
 21 vide notice of the action to the individual to whom
 22 health services are provided prior to the filing of the
 23 action, instituting a civil action.”;

24 (6) in subsection (f), by striking “(f) The
 25 United States” and inserting “(f) SERVICES COV-

1 ERED UNDER A SELF-INSURANCE PLAN.—The
 2 United States”; and

3 (7) by adding at the end the following new sub-
 4 sections:

5 “(g) COSTS OF ACTION.—In any action brought to
 6 enforce this section, the court shall award any prevailing
 7 plaintiff costs, including attorneys’ fees that were reason-
 8 ably incurred in that action.

9 “(h) RIGHT OF RECOVERY FOR FAILURE TO PRO-
 10 VIDE REASONABLE ASSURANCES.—The United States, an
 11 Indian tribe, or a tribal organization shall have the right
 12 to recover damages against any fiduciary of an insurance
 13 company or employee benefit plan that is a provider re-
 14 ferred to in subsection (a) who—

15 “(1) fails to provide reasonable assurances that
 16 such insurance company or employee benefit plan
 17 has funds that are sufficient to pay all benefits owed
 18 by that insurance company or employee benefit plan
 19 in its capacity as such a provider; or

20 “(2) otherwise hinders or prevents recovery
 21 under subsection (a), including hindering the pursuit
 22 of any claim for a remedy that may be asserted by
 23 a beneficiary or participant covered under subsection
 24 (a) under any other applicable Federal or State
 25 law.”.

1 (d) CALIFORNIA CONTRACT HEALTH SERVICES
 2 DEMONSTRATION PROGRAM.—Section 211(g) (25 U.S.C.
 3 1621j(g)) is amended by striking “1993, 1994, 1995,
 4 1996, and 1997” and inserting “1996 through 2000”.

5 (e) MEDICARE AND MEDICAID DEMONSTRATION
 6 PROGRAM.—Section 405(c) (25 U.S.C. 1645(c)) is
 7 amended—

8 (1) in paragraph (1)(D), by striking “prior to
 9 October 1, 1990” and inserting “on or before the
 10 date which is 1 year after the date of submission of
 11 the plan”; and

12 (2) in paragraph (2)—

13 (A) by striking “, prior to October 1,
 14 1989, select no more than 4” and inserting “se-
 15 lect no more than 12”; and

16 (B) by striking “September 30, 1996” and
 17 inserting “September 30, 2000”.

18 (f) GALLUP ALCOHOL AND SUBSTANCE ABUSE
 19 TREATMENT CENTER.—Section 706(d) (25 U.S.C.
 20 1665e(d)) is amended to read as follows:

21 “(d) AUTHORIZATION OF APPROPRIATIONS.—There
 22 are authorized to be appropriated, for each of fiscal years
 23 1996 through 2000, such sums as may be necessary to
 24 carry out subsection (b).”.

1 (g) SUBSTANCE ABUSE COUNSELOR EDUCATION
2 DEMONSTRATION PROGRAM.—Section 711(h) (25 U.S.C.
3 1665j(h)) is amended by striking “1993, 1994, 1995,
4 1996, and 1997” and inserting “1996 through 2000”.

5 (h) HOME AND COMMUNITY-BASED CARE DEM-
6 ONSTRATION PROGRAM.—Section 821(i) (25 U.S.C.
7 1680k(i)) is amended by striking “1993, 1994, 1995,
8 1996, and 1997” and inserting “1996 through 2000”.